

**MEMORANDUM OF AGREEMENT  
BETWEEN  
SANTA FE COUNTY AND  
NEW ENERGY ECONOMY  
CONCERNING  
A PRELIMINARY ECONOMIC FEASIBILITY STUDY OF A  
COUNTY-MUNICIPAL ELECTRIC UTILITY**

**THIS MEMORANDUM OF AGREEMENT** (hereinafter "Agreement") is entered on this 1<sup>st</sup> day of April 2011, by and between Santa Fe County (hereinafter referred to as ("County")), a New Mexico political subdivision, and New Energy Economy, a New Mexico non-profit company (hereinafter referred to "NEE"), located at 342 East Alameda Street, Santa Fe, New Mexico, 87501-2229.

**RECITALS**

**WHEREAS**, the Regional Planning Authority, a joint planning entity of the City of Santa Fe and the County of Santa Fe, created an energy task force one of whose objectives was to study the benefits and disadvantages of a County-Municipal electric utility in Santa Fe County;

**WHEREAS**, the technical feasibility of a County-Municipal electric utility was previously studied by Santa Fe County and technical challenges were shown to exist and could be managed with careful planning;

**WHEREAS**, a preliminary economic feasibility study would help to assess the economic benefits of a County-Municipal electric utility on the local economy and the ratepayers;

**WHEREAS**, it has long been the perception among policy makers in the City and County of Santa Fe that a County-Municipal electric company has much to offer customers, including the possibility of utilizing new concepts such as distributed generation, green energy, and renewable energy feed-in tariffs, providing electrical service for our community and its residents that is reliable but responsible;

**WHEREAS**, additional economic feasibility studies are needed before these assumptions can be fully evaluated, but limited governmental funds are available;

**WHEREAS**, the Regional Planning Authority has dedicated the sum of Twenty-thousand Dollars (\$20,000) towards a preliminary economic feasibility study, which amount is insufficient to perform and complete such a study;

**WHEREAS**, New Energy Economy, a non-profit established for the purpose of creating economic opportunity in New Mexico with less carbon pollution and more clean energy, has solicited private contributions for a preliminary economic feasibility study in the amount of Ten Thousand Dollars (\$10,000) and New Energy Economy itself agrees to contribute Five Thousand Dollars (\$5,000) to this effort;

**WHEREAS**, between the contributions of the Regional Planning Authority (“RPA”) and New Energy Economy, funding is available to perform and complete a preliminary economic feasibility study;

**WHEREAS**, this procurement of services is less than \$30,000 and is exempt from competitive sealed bid pursuant to Paragraph 41 of the Santa Fe County Purchasing Regulations;

**WHEREAS**, and the parties hereto desire to jointly undertake the completion of a preliminary economic feasibility study with New Energy Economy taking the lead to secure a contractor to complete the study, supervise the contractor’s work and arrange for reports of findings and public presentations of the findings;

**WHEREAS**, and the parties desire to formalize their agreement and understanding with respect to the completion of a preliminary economic feasibility study of a County-Municipal electric utility.

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES as follows:**

**1. SERVICES TO BE PROVIDED BY NEE:**

- A. NEE shall work with the County to cause to be performed and completed a preliminary economic feasibility study of a County-Municipal electric utility.
- B. Specifically, NEE shall:
  - 1. Serve as the lead agency for the performance of services under this Agreement.
  - 2. Identify and contract with an appropriate contractor who has expertise analyzing economic considerations of county-municipal electric utilities.
  - 3. Supervise and oversee the contractor’s performance and arrange for reports of findings and public presentations of the findings.
  - 4. Ensure that the contractor provides all of the following:
  - 5. A comprehensive and detailed cost-benefit analysis and written report that contains:
    - a. Baseline information on residential and commercial electricity sales and trends in the City and County of Santa Fe from 2001 to the present;
    - b. Projections and itemization of the costs of establishing a County-Municipal electric utility, including the cost of purchasing from the Public Service Company of New Mexico (PNM) and its infrastructure (poles and wires, related distribution and gear);
    - c. complete estimate of the costs of annual operation and maintenance and appropriate estimates and present value calculations of costs over time and extrapolates electric rates for customers;
    - d. A determination of the requirements for electric power to be supplied to Santa Fe County for the next 20 years and reasonable estimates of the estimated costs;

- e. Estimate rates for electricity purchases under each of the following scenarios and compare the estimates with the following projections of what the national average might be if: 1) PNM continues to own the utility, 2) the County-Municipal electric utility purchases all of its electricity from PNM, 3) the County-Municipal electric utility purchases its power on the wholesale market, 4) the County-Municipal electric utility purchases its power on the wholesale market with aggressive energy efficiency programs, and 5) the County-Municipal electric utility purchases its power through a renewable energy feed-in tariff with aggressive energy efficiency programs;
  - f. A sensitivity analysis on the various assumption variables: i.e., consider costs for replacing or upgrading facilities; costs of capitalization, water, carbon, fuel, etc.
  - g. Estimates of costs and other consequential benefits of energy efficiency, including estimates of the economic benefits to the City and County of Santa Fe including jobs, local multipliers, etc.
- 6. Ensure that the contractor prepares a detailed written report on its findings and makes recommendation for optimal timing of the establishment of a County-Municipal electric utility that accounts for inflation and all other future regulatory changes.
  - 7. Ensure that the contractor makes at least three (3) public presentations one of which shall be to the RPA to present and explain the results and findings of the preliminary study.

## **2. SERVICES TO BE PROVIDED BY COUNTY:**

Provide NEE's contractor with a copy of the previous technical feasibility study and all other relevant information that has been prepared to date.

## **3. COMPENSATION:**

- A. The County shall provide a contribution not to exceed Twenty Thousand Dollars (\$20,000) to the contractor's preparation and completion of the preliminary economic feasibility study and the tasks described above.
- B. NEE shall provide a contribution of Fifteen Thousand Dollars (\$15,000) to the procurement of a contractor and its preparation and completion of the study and the tasks described above.
- C. NEE shall submit an invoice to the County when the contractor's work is complete and accepted by the County. NEE's invoice shall be addressed no later than thirty (30) days following the County's acceptance of the contractor's written report and presentation to the RPA.

## **4. STATUS:**

NEE acknowledges that it and the contractor it secures are independent contractors and as such neither employees, agents or representatives of NEE or its contractors shall be considered employees of agents of the County nor shall they be eligible to accrue leave,

retirement benefits, insurance benefits, use of vehicles, or any other benefits provided to County employees.

**5. NOTICES:**

Any notice required by this Agreement shall be given in writing to the parties designated below. Notice shall be effective when delivered personally to any party, or three business days after deposited, postage fully prepaid, registered or certified, in an official receptacle of the U.S. Postal Service.

For County: Santa Fe County  
102 Grant Ave.  
P.O. Box 276  
Santa Fe, NM 87504-0276  
ATTN: Penny Ellis-Green, Deputy County Manger  
(505) 986-6221

For NEE: New Energy Economy  
343 East Alameda Street  
Santa Fe, NM 87501-2229  
Phone: (505) 469-4060  
ATTN: Mariel Nansi

**6. TERM:**

This Agreement shall not become effective until signed by both authorized signatories of the State and NEE. This Agreement shall expire on June 30, 2012, unless terminated pursuant to Paragraph 6.

**7. TERMINATION:**

This Agreement may be terminated by either party upon delivery of a written notice to the other party at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify or avoid any obligations incurred prior to termination.

**8. LIABILITY:**

Any liability incurred by the County in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, § 41-4-1, et seq., NMSA 1978, as amended.

**9. AMENDMENT:**

This Agreement shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto.

**10. APPROPRIATIONS:**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the County for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate upon written notice being given from one party to the other. The County's decision as to whether sufficient appropriations are available shall be accepted by the other party and shall be final.

**11. GOVERNING LAW:**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of New Mexico.

**12. ACCOUNTABILITY:**

During the term of this Agreement and for a period of three (3) years thereafter, each of the parties will maintain accurate and complete records of all disbursements made and monies received by each under this Agreement; and, upon receipt of reasonable written request, each shall make such records available to the other party and to the public, including any federal, state or local authority during regular business hours.

**13. SCOPE OF AGREEMENT**

This MOA incorporates all the Agreements, covenants, and understanding between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written agreement. No prior agreement verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

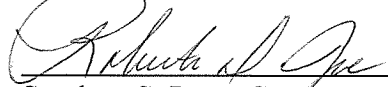
**IN WITNESS WHEREOF** the parties have duly executed this Agreement as of the dates written below.

**SANTA FE COUNTY:**

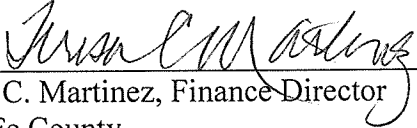
  
Katherine Miller, County Manager


4.1.11  
Date

**APPROVED AS TO LEGAL FORM:**

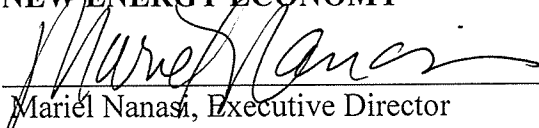
  
Stephen C. Ross, County Attorney

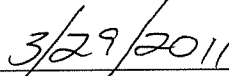
3/28/11  
Date

  
\_\_\_\_\_  
Teresa C. Martinez, Finance Director  
Santa Fe County

  
\_\_\_\_\_  
Date

**NEW ENERGY ECONOMY**

  
\_\_\_\_\_  
Mariel Nanasi, Executive Director

  
\_\_\_\_\_  
Date